

consider any nonspecific objections or any frivolous or conclusory objections. Battle v. United States Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987).

Lemanski filed his federal petition for writ of habeas corpus in this court on December 14, 2006, pursuant to 28 U.S.C. § 2254. The magistrate judge found that the applicable statute of limitations ran on Lemanski petition on August 22, 2005, and thus his petition should be dismissed as time-barred. Lemanski appears to object to this finding in stating that his state habeas petition was filed October 17, 2005, and was denied by the Texas Court of Criminal Appeals on November 29, 2006. However, the statute of limitations for filing a federal habeas petition pursuant to § 2254 starts to run on the date the state conviction becomes final. 28 U.S.C. § 2244(d)(1)(A); Roberts v. Cockrell, 319 F.3d 690, 694 (5th Cir. 2003). The statute of limitations for filing a federal habeas petition may be tolled during the pendency of a state habeas application. § 2244(d)(2). However, a state habeas application cannot extend the deadline for filing a § 2254 petition when the state application was filed after limitations provided by federal law have expired. See Scott v. Johnson, 227 F.3d 260, 263 (5th Cir. 2000). Here, Lemanski's state conviction became final on August 21, 2004, and the statute of limitations for filing his § 2254 petition ran on August 22, 2005. Lemanski did not file his state habeas application until September 29, 2005. Thus, Lemanski's federal petition filed

December 14, 2006, was untimely and should be dismissed as time-barred.

Therefore,

The court accepts the findings, conclusions and recommendation of the magistrate judge and ORDERS that the petition in this action be, and is hereby, dismissed with prejudice as time-barred.

SIGNED May 22, 2007.



JOHN MCBRYDE
United States District Judge